IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2967 OF 2005

Shri Amarnath V. Tiwari . .. Petitioner.

vs.

The Kurla Nagarik Sah.

Bank Ltd., .. Respondents.

Mr. Appasahenb Desai with A.S. Desai and

V.M. Joshi for petitioner.

Mr. Madhavi Nalawade for respondent no.1.

CORAM : S.U. KAMDAR, J.

DATE : 18th November, 2005.

P.C.:

. The present petition is filed challenging the order dated 2.3.2005 passed by the Co-operative Appellate Court, Mumbai in Appeal No. 73 of 2003. The petitioner before me is the principal borrower in so far as the loan is concerned and the respondent nos. 2 to 4 are the sureties. The claim application was filed by the respondent no. 1 being CC-V/236 of 2000 before the Fifth Co-operative Court at Bombay and in view of the fact that none of the parties had filed their written statement, the Court

proceeded and passed an ex-parte award. The Court has recorded that neither the petitioner herein nor respondent nos. 2 to 4 filed the affidavit nor cross-examined the witness. The Court has further recorded in the award that the opponent no. 1 who is the principal borrower and respondent nos. 2 to 4 are liable as sureties. While passing the aforesaid order erroneously by a typographical error the Court in place of stating opponent nos. 1 to 4 in the operative part of the award it has stated as opponent nos. 2 to 4. The respondent no. 1 bank thereafter made an application for a correction and that application has been granted against which an appeal was preferred before the Co-operative Appellate Court. The appeal has been dismissed by the impugned order which is challenged before me. The only contention is that the court was not empowered to alter the award by substituting the words 'opponent nos. 2 to 4' to 'opponent nos. 1 to 4'. In my opinion, the error is mere typographical. The reasoning of the award passed by the Co-operative Court indicates that claim of opponent no. 1 was also considered on merit and there can be no award against opponent no. 2 to 4 who are sureties unless there is an award passed against the principal borrower who is opponent no. 1 herein. In that view of the matter, I do not find any substance in the present writ petition. Petition is accordingly dismissed. There shall be

no order as to costs.